

CIRCUIT COURT OF OREGON
MULTNOMAH COUNTY

IN THE MATTER OF:

DANA L. PHILLIPS, and STEVEN C.
PHILLIPS,

Respondents.

Case No.

ASSURANCE OF VOLUNTARY
COMPLIANCE

1.

Respondents Dana L. Phillips and Steven C. Phillips (collectively, "Respondents") are residents of the State of Oregon. Respondent Dana L. Phillips is the former president of Miss Oregon Scholarship Program and a former director of Oregon Scholarship Foundation, both Oregon non-profit public benefit corporations. Respondent Steven C. Phillips is the former president and a former director of Oregon Scholarship Foundation. This agreement is between Respondents and the Oregon Department of Justice (DOJ) (collectively, the "Parties") acting pursuant to ORS 646.632.

PROCEDURE

2.

This Assurance of Voluntary Compliance (AVC) is a settlement of a disputed matter. It shall not be considered an admission of a violation for any purpose. Respondents and DOJ agree that no provision of the AVC operates as a penalty, forfeiture, or punishment under the Constitution of the United States, under the Constitution of the State of Oregon, or under any other provision of law.

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1 3.

2 Respondents acknowledge receiving a notice from the State of Oregon pursuant to ORS
3 646.632(2) of the alleged unlawful trade practices and the relief to be sought.

4 4.

5 Respondents understand and agree that this AVC applies to Respondents, Respondents'
6 principals, officers, directors, agents, employees, representatives, successors and assigns, jointly
7 and severally, while acting personally, or through any corporation or other business entities,
8 whose acts, practices or policies are directed, formulated or controlled by Respondents.

9 5.

10 Respondents and Respondents' attorney(s), if any, agree and understand that following
11 acceptance of the AVC by DOJ, DOJ may communicate directly with Respondents for the
12 purpose of executing and enforcing the terms of this agreement, resolving future complaints,
13 and conducting undercover investigations of Respondents to the extent permitted by law.

14 6.

15 Respondents understand and agree that if this AVC is accepted by DOJ, it will be
16 submitted to the Circuit Court of the State of Oregon for Multnomah County for approval, and,
17 if approved, will be filed with the court pursuant to ORS 646.632(2).

18 7.

19 Respondents waive any further notice of submission to and filing with the court of this
20 AVC. Respondents agree to accept service of a conformed or court certified copy by prepaid
21 first-class mail sent to the address following Respondents' signatures or to Respondents'
22 attorney(s), if any.

23 8.

24 If Respondents Dana L. Phillips and Steven C. Phillips fail to fully comply with the
25 requirements set forth in Paragraphs 13 and 14 of this AVC, or fail timely to pay monies
26 ordered to be paid in Paragraph 15 of this AVC, DOJ may convert the AVC to a General

1 Judgment, Money Award under ORS 646.632(2) without notice to Respondents. Respondents
2 agree that a copy of the General Judgment, Money Award may be sent to Respondents, first-
3 class mail to the address following Respondents' signatures.

4 9.

5 Respondents understand that, in addition to any other sanctions which may be imposed
6 under this AVC or under the law, violation of any of the terms of this AVC may result in
7 contempt of court proceedings, civil penalties of up to \$25,000 for each violation, and such
8 further relief as the court may deem appropriate. ORS 646.632(4), ORS 646.642(1) and ORS
9 646.642(2).

10 10.

11 The Parties acknowledge that no other promises, representations or agreements of any
12 nature have been made or entered into by the Parties. The Parties further acknowledge that this
13 AVC constitutes a single and entire agreement that is not severable or divisible, except that if
14 any provision herein is found to be legally insufficient or unenforceable, the remaining
15 provisions shall continue in full force and effect.

16
17 **REMEDIES**

18 11.

19 Respondents shall obey Oregon's Unlawful Trade Practices Act, ORS 646.605 to
20 646.656, and the Oregon Charitable Solicitations Act, ORS 128.801 to ORS 128.898.

21 12.

22 Respondents shall not represent or imply that DOJ acquiesces or approves of
23 respondent's past business practices, current efforts to reform its practices, or any future
24 practices which Respondents may adopt or consider adopting. DOJ's decision to settle this
25 matter or to otherwise unilaterally limit current or future enforcement action does not constitute
26 approval or imply authorization for any past, present, or future business practice.

13.

Respondents hereby certify that they have taken the following actions prior to December 15, 2018:

- A. Respondents Dana L. Phillips and Steven C. Phillips certify that they have permanently resigned from any office, directorship, or position of authority within Miss Oregon Scholarship Program and Oregon Scholarship Foundation;
- B. Respondents Dana L. Phillips and Steven C. Phillips certify that they have turned over all copies of administrative documents and financial records belonging to Oregon Scholarship Foundation and retain no copies of such documents or records in their custody or control; and
- C. Respondents Dana L. Phillips and Steven C. Phillips certify that they have permanently relinquished direct and indirect control of all bank accounts held by Oregon Scholarship Foundation, including signatory authority, online passwords, check registers, checkbooks, and debit or credit cards.

14.

Respondents agree to adhere to each of the following requirements after the date of the execution of this AVC:

- A. Respondents Dana L. Phillips and Steven C. Phillips shall not act in a fiduciary capacity with respect to any Oregon nonprofit corporation or organization;
- B. Respondents Dana L. Phillips and Steven C. Phillips shall not solicit charitable donations or other payments for charitable purposes in the State of Oregon; and
- C. Respondents Dana L. Phillips and Steven C. Phillips shall not exercise direct or indirect control over any charitable assets held in the State of Oregon or by any Oregon nonprofit corporation or organization.

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14.

Nothing in this AVC shall be construed as prohibiting Respondents Dana L. Phillips and Steven C. Phillips from providing volunteer services, assistance, or contributions to nonprofit organizations, provided that such activities do not conflict with other terms of this AVC.

RESTITUTION

15.

Respondents Dana L. Phillips and Steven C. Phillips shall begin paying as restitution the sum of \$150,000.00 for deposit to the custody of Oregon Community Foundation (OCF). These funds will be used by OCF to create a scholarship fund named "Tiffany Phillips Memorial Scholarship Fund". The structure and selection criteria for this scholarship are outlined in Exhibit A and Exhibit B. At no time after the creation of this scholarship fund may Dana L. Phillips, Steven C. Phillips, or any DOJ employee participate in the selection of its recipients.

16.

The restitution shall consist of three equal installment payments of \$50,000 each to the Tiffany Phillips Memorial Scholarship Fund, care of the Oregon Community Foundation. The payments will be made as follows: the first payment shall be paid no later than twenty-one (21) days after the execution of this AVC; the second installment shall be paid no later than August 1, 2019; and the final installment shall be paid no later than December 31, 2019. No later than seven (7) days after completing each payment to the Oregon Community Foundation, Respondents Dana L. Phillips and Steven C. Phillips shall provide documentation of the payment to the Oregon Department of Justice at the following address:

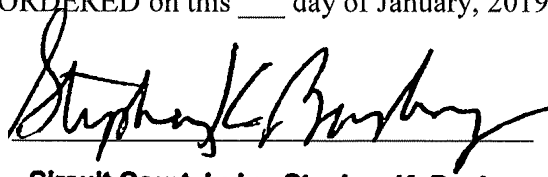
Oregon Department of Justice
Charitable Activities Section
Attn: Jeremy Piatt
100 SW Market Street
Portland, OR 97202

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APPROVAL BY COURT

Signed: 1/30/2019 04:44 PM

APPROVED FOR FILING and SO ORDERED on this ____ day of January, 2019.

A handwritten signature in black ink, appearing to read "Stephen K. Bushong", is written over a horizontal line.

Circuit Court Judge Stephen K. Bushong

1 **RESPONDENTS' SIGNATURES AND ACKNOWLEDGMENT**

2

3 Respondents acknowledge that they have reviewed and understand this agreement and

4 each of its terms. Respondents agree to each and every term.

5

6 Steven C. Phillips, *Individually*

7 Steven C. Phillips

8 Dated Jan, 14, 2019

9

10 Address for Notice: 1845 BROADWAY

11 SEASIDE OREGON

12 97138

13

14 Dana L. Phillips, *Individually*

15 DANA L PHILLIPS

16 Dated 1-14, 2019

17

18 Address for Notice: 1845 BROADWAY

19 SEASIDE OREGON

20 97138

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3 Accepted this 16th day

ELLEN F. ROSENBLUM
Attorney General

ELLEN F. ROSENBLUM
Attorney General

100 SW Market Street
Portland, OR 97201
Phone: (971) 673-1880
Fax: (971) 673-1884
Email: mark.a.kleyna@doj.state.or.us



THE OREGON COMMUNITY FOUNDATION

FUND AGREEMENT

Tiffany Phillips Memorial Scholarship Fund

DANA L. PHILLIPS and STEVEN C. PHILLIPS (the "Donors") and THE OREGON COMMUNITY FOUNDATION, an Oregon nonprofit corporation ("OCF"), hereby agree to establish a charitable fund, subject to the following conditions:

1. Any and all assets transferred to OCF under this agreement, whether during the lifetimes of the Donors or after their deaths, shall be designated by OCF as the Tiffany Phillips Memorial Scholarship Fund of The Oregon Community Foundation (the "Fund").
2. The assets of the Fund may be commingled with other OCF property for investment purposes.
3. The Fund is intended to be and shall be administered as a component fund of OCF and shall be subject to OCF's articles of incorporation and bylaws, as amended from time to time (including without limitation the provisions thereof authorizing OCF to vary or modify restrictions or conditions that it believes are unnecessary, incapable of fulfillment, or inconsistent with the charitable, educational, and scientific needs of the state of Oregon), and the terms of this agreement shall be construed and applied in all respects in a manner not inconsistent with OCF's articles of incorporation and bylaws. The assets of the Fund shall be held and owned by OCF in its corporate capacity and shall not be deemed to be held by OCF as trustee of a separate trust for any beneficiary.
4. OCF shall distribute in annual or other installments an appropriate percentage of the fair market value of the Fund for the charitable purposes described in paragraph 5. Such percentage shall be the percentage determined from time to time by the board of directors of OCF under its grant percentage payout policy for permanent funds. In determining such percentage, the board of directors of OCF will consider the expected total return on the investment of the permanent funds of OCF, the desirability of maintaining the real value of the permanent funds of OCF, and any and all other factors that OCF deems relevant in its sole discretion. In no event will such percentage be less than a reasonable rate of return.
5. OCF shall make charitable distributions from the Fund for the award of scholarships to female graduates (or the equivalent) of high schools in the state of Oregon for use in pursuit of post-secondary education at public or private nonprofit colleges (including community colleges) or universities in the United States that are eligible to participate in the federal student financial aid program. The purpose of the Fund is to provide scholarships to those students who show academic or vocational potential and due to their economic circumstances are not able to pay their total college costs from personal or family resources. First consideration will be given to candidates with a demonstrated interest in developing leadership skills, serving their communities, and leading by example.

6. The Fund shall be administered and all scholarships awarded on an objective and nondiscriminatory basis pursuant to policies and procedures approved in advance by OCF's board of directors, and such policies and procedures shall be designed in part to ensure that all scholarship grants meet the requirements of Internal Revenue Code section 4945(g). Scholarship recipients shall be selected by OCF in its sole discretion. In administering the Fund and selecting recipients, OCF will observe the conditions of paragraph 5 and the following guidelines:

- (a) Scholarship recipients shall be enrolled or planning to enroll at a post-secondary institution that is eligible to participate in the federal student financial aid program.
- (b) Financial need shall be determined by a federally-approved need analysis form or other objective means.
- (c) Awards may be renewed if the recipient reapplies each year, documents adequate progress toward a degree, remains in good standing at the institution at which the student is enrolled, and has continuing financial need. The recipient may not, however, receive awards for more than 18 academic quarters or 12 academic semesters.
- (d) Awards to scholarship recipients may be deferred for one year.
- (e) Awards to students may be used for all costs of attendance as approved by the institution the student will attend.
- (f) The number and amount of scholarships awarded shall be in the sole discretion of OCF.
- (g) OCF may in its discretion use additional criteria to select scholarship recipients, provided that such criteria are consistent with the purposes of the Fund.

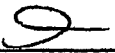
7. Before making any scholarship distributions from the Fund, OCF shall consult with and seek the advice of an advisory committee selected by OCF. Under no circumstance shall the Donors or any current employee of the Oregon Department of Justice serve on or control the advisory committee, directly or indirectly.

8. OCF shall appropriately memorialize the Fund for as long as the Fund remains in existence.

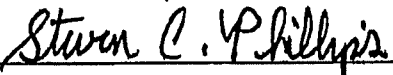
9. Unless OCF receives instructions to the contrary, all charitable distributions from the Fund shall be identified to the beneficiaries as coming from the Fund and OCF.

DATED the 14 [Day] of January, 2019.

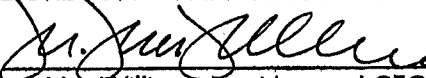
Dana L. Phillips

 DANA L PHILLIPS

Steven C. Phillips

 Steven C. Phillips

THE OREGON COMMUNITY FOUNDATION

By: 
Max Williams, President and CEO

OCF may not provide tax or legal advice. All donors are encouraged to consult with their own tax and legal advisors.

Checklist for Scholarship Fund Guidelines

Below is a criteria checklist that will help identify scholarship candidates that best fit the donor's objectives.

Fund Name: Tiffany Phillips Memorial Scholarship Fund Code: _____

Person Completing Form: Jeremy Piatt Date: 11/15/2018

Academic Year that First Scholarship will be awarded: 2020

Scholarship Type: ☒ OCF/OSAC ☐ OCF In-House² ☐ OCF Institutional³

Scholarship Purpose:

Eligible Students	Select Yes, No, or N/A	Note preference or requirement for a particular school, school district or region.
Residency: note state, county, etc. (if applicable)	Yes	Oregon residents
Graduating high school seniors	Yes	N/A
Prior high school graduates	Yes	N/A
Prior recipients	Yes	N/A
Undergraduate students	Yes	N/A
Graduate students	Yes	N/A
GED recipients	Yes	GED recipients & home-schooled graduates cannot be identified by school or school district; only by city or county
Home-schooled students	Yes	

College Enrollment	Select Yes, No, or N/A	Note requirement or preference for a particular college major, course of study, or career field
Enrolled full-time	Yes	Must be enrolled at least 12 credit hours
Enrolled at least half-time (includes full-time)	No	N/A
Major(s)	N/A	List Majors (if applicable):
Career Field(s)	N/A	List Career Fields (if applicable):

Eligible Educational Institutions	Select Yes, No, or N/A	Comments
Public Community Colleges (two-year institutions)	Yes	
Public Colleges/Universities (four-year institutions)	Yes	
Private Institution	Yes	
• Nonprofit college/university	Yes	In-person attendance preferred
• For-profit accredited (includes career technical/ trade)	No	
Located in Oregon ONLY	No	
Located anywhere in the United States (includes Oregon)	Yes	

Awards	Note specifics, as appropriate
Note any preferences for size and/or number of awards. At least \$1,000 per award required.	
Awarding Type	Select One
Not renewable (one time only)	No
Renewal possible, but must reapply and compete each year	Yes
Renewal automatic if renewal criteria met	No
	Note specifics, as appropriate
	Maximum number of years: N/A
	Maximum number of years: N/A

¹ Use "OSAC- name of scholarship" for funds transferred from OSAC.

² If the scholarship is for a particular race or ethnic group, or a particular college, it cannot be managed through OSAC and instead becomes an in-house scholarship, with awards paid by OCF rather than OSAC to educational institutions on behalf of the selected individuals.

³ If the scholarship is for a particular educational institution, which then selects its own recipients, it becomes an institutional scholarship and the award is made annually via a grant.

Selection Criteria – Financial & Academic	Select Yes, No, or N/A	Note specifics and indicate priority, as appropriate
Financial need ⁴ is a requirement (FAFSA ⁵ or other OCF approved financial need info required)	No	
Financial need is a consideration (FAFSA or other OCF approved financial need info required; include students with and without need)	No	
Financial need is a consideration (FAFSA or other OCF approved financial need info recommended; include students who did and who did not complete the FAFSA)	Yes	
Financial need is not a consideration (FAFSA not required)	N/A	
College Entrance Tests SAT: average score is: 1000 ⁶ ACT: average score is: 21	N/A	
Cumulative High school GPA	3.0	
Cumulative College GPA	3.0	
Selection Criteria – Activities	Select Yes, No, or N/A	Note specifics and indicate priority, as appropriate
Participation in school activities	No	
Participation in community service	Yes	High
Participation in professional activities	No	
Other activities or membership in a particular group	No	
Selection Criteria – Personal Qualities	Select Yes, No, or N/A	Note specifics and indicate priority, as appropriate
Ability to overcome obstacles	No	
Character / Compassion / Empathy	Yes	High
Desire to learn	No	
Diligence / work ethic	No	
Leadership	Yes	High
Self-motivation/ Self-reliance	No	
Older student or attending college after a long absence	No	
First-generation college attendee	No	
Other:		

The standard application includes the following four short essays (maximum 150 words each):

1. What are your specific **educational plans** and **career goals** and why? What **inspires** you to achieve them?
2. What have you done for your **family or community** that you care about the most and why?
3. Describe a personal **accomplishment and the strengths and skills** you used to achieve it.
4. Describe a **significant change or experience** that has occurred in your life. How did you **respond** and what did you **learn** about yourself?

Extra Documents / Essay Required

(Please note that we seek to minimize the extra documentation required by students. Needs approval.)

Decision-Making Process	Note specifics below, if applicable, RE who is to be on advisory committee.
Selections made by (Check One): <input type="checkbox"/> OSAC	No current Oregon DOJ employee may be involved
<input checked="" type="checkbox"/> OCF	Steven Phillips and Dana Phillips may not be involved
<input type="checkbox"/> Other Selection Committee	
Other Notes or Comments: Candidate must identify as female and be 17-25 years of age. Preference given to individuals with a desire to develop personal and professional communication and leadership skills. Preference given to individuals with demonstrated experience acting as a role-model, serving their community, or advocating for causes.	

⁴ Remaining financial need: total cost of college minus state and federal aid minus expected family contribution (FAFSA determined)

⁵ FAFSA= Free Application for Federal Student Aid (which determines financial need using income tax filings, etc.)

⁶ SAT scoring system changed in 2016. Reading /Writing= max 800; Math = max 800.

1 **CERTIFICATE OF READINESS**

2 This proposed *Stipulated General Judgment and Money Award* is ready for judicial signature
3 because:

4 1. ☒ Each opposing party affected by this order has stipulated to the order, as shown
5 by each opposing party's signature on the document being submitted.

6 2. ☐ Each opposing party affected by this order has approved the order, as shown by
7 signature on the document being submitted or by written confirmation of approval
8 sent to me.

9 3. ☐ I have served a copy of this order on all parties entitled to service and provided
10 written notice of the objection period, and:

11 a. ☐ No objection has been served on me within that time frame.

12 b. ☐ I received objections that I could not resolve with the opposing party
13 despite reasonable efforts to do so. I have filed with the court a copy of the
14 objections I received and indicated which objections remain unresolved.

15 c. ☐ After conferring about objections, [*role and name of opposing party*]
16 agreed to file any remaining objection with the court by [*date*], which
17 predated my submission.

18 4. ☐ The relief sought is against an opposing party who has been found in default.

19 5. ☐ An order of default is being requested with this proposed judgment.

20 6. ☐ Service is not required by statute, rule, or otherwise.

21
22 /s/ Mark A. Kleyna
23 Mark A. Kleyna, OSB #145004
24 Assistant Attorney General
Oregon Department of Justice
Of Attorneys for the State of Oregon

25 100 SW Market Street
26 Portland, Oregon 97201
Phone: (971) 673-1880
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Email: mark.a.kleyna@doj.state.or.us